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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/750,209

01/02/2004

Keneth K. Cyr

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SHOOK, HARDY & BACON L.L.P.  
Intellectual Property Department  
2555 GRAND BOULEVARD  
KANSAS CITY, MO 64108-2613

EXAMINER

OBAID, FATEH M

ART UNIT

PAPER NUMBER

4154

MAIL DATE

DELIVERY MODE

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PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/750,209	<b>Applicant(s)</b> CYR ET AL.	
	<b>Examiner</b> FATEH M. OBAID	<b>Art Unit</b> 4154	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 02 January 2004.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-36 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-36 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 02 January 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Claim Rejections - 35 USC § 101*

1. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claim 25-36 is rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

In order for a method to be considered a "process" under §101, a claimed process must either: (1) be tied to another statutory class (such as a particular apparatus) or (2) transform underlying subject matter (such as an article or materials). *Diamond v. Diehr*, 450 U.S. 175, 184 (1981); *Parker v. Flook*, 437 U.S. 584, 588 n.9 (1978); *Gottschalk v. Benson*, 409 U.S. 63, 70 (1972). If neither of these requirements is met by the claim, the method is not a patent eligible process under §101 and is non-statutory subject matter. With respect to claims 25-36, the claim language does not include the required tie to a statutory class or a transformation and thus is directed to nonstatutory subject matter.

### *Claim Rejections - 35 USC § 102*

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claim 1-36 rejected under 35 U.S.C. 102(b) as being anticipated by DeBusk et al. "US 5,991,728".

3. **Regarding Claims 1, 13, and 25:** DeBusk teaches the following as claimed

A system and method for automatically generating orders for clinically related supplies, comprising:

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- receiving supply consumption data documented for at least one clinical event captured from at least one clinically related (**See Col. 2 Lines 18-23 and Col.6 5-23**);
  - updating supply inventory data to account for the supply consumption data (**See Col. 6 Lines 43-63, and Col. 7 Lines 1-16**);
  - running reports against the supply inventory data (**See Figs. 14-16; Col. 17-51 and Col. 19 Lines 4-37**); and
  - automatically generating orders for clinically related supplies based upon a state of the supply inventory data (**See Col. 4 Lines 26-45 and Col. 14 lines 32-56**).
4. **Regarding Claims 2, 14, 26:** DeBusk teaches the following as claimed
- An order for clinically related supplies according to claims 1, 13, and 25, wherein the clinically related site comprises at least one of a hospital facility, a research facility and a government facility (**See Col. 18-37, Col. 3 Lines 18-29, and Col. 520-31, Col. 6 Lines 31-42**).
5. **Regarding Claims 3, 15, 27:** DeBusk teaches the following as claimed
- A method and a system according to claims 1, 13, and 25, wherein the supply inventory data comprises at least one of clinically available quantities of surgical devices, clinically available quantities of pharmaceuticals and clinically available quantities of consumable material (**See Col. 1 Lines 55-67 and Col. 2 Lines 1-37**).
6. **Regarding Claims 4, 16, 28:** DeBusk teaches the following as claimed
- A method and a system according to claims 3, 15, and 27, further comprising a step of generating a clinical supply order based upon at least one clinical quantity threshold (**Col. 2 Lines 55-61, Col. 4 Lines 47-51, and Col. 6 Lines 7-23**).

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7. **Regarding Claims 5, 17, 29:** DeBusk teaches the following as claimed

- A method and a system according to claim 1, 13, and 25, wherein the orders for clinically related supplies comprise purchase orders (**See Fig. 12; Col. 8 Lines 35-47**).

8. **Regarding Claims 6, 18, 30:** DeBusk teaches the following as claimed

- A method and a system according to claim 1, 13, and 25, further comprising a step of capturing supply codes captured in the at least one clinically related site (**See Figs. 12, 14 15, and 24**).

9. **Regarding Claims 7, 19, 31:** DeBusk teaches the following as claimed

- A method and a system according to claims 6, 18, and 30, wherein the supply codes comprise at least one of optically scanned bar codes, radio frequency identification codes and manually entered codes (**See Col 22 Lines 1-22**).

10. **Regarding Claims 8, 20, 32:** DeBusk teaches the following as claimed

- A method and a system according to claims 1, 13, and 25, wherein the orders for clinically related supplies are aggregated for transmission in batch mode (**See Col. 2 Lines 51-61, Col 6 Lines 26-46, and Col. 10 Lines 1-17**).

11. **Regarding Claims 9, 21, 33:** DeBusk teaches the following as claimed

- A method and a system according to claims 1, 13, and 25, wherein the orders for clinically related supplies are transmitted in at least substantially real-time (**Col. 10 Lines 1-17**).

12. **Regarding Claims 10, 22, 34:** DeBusk teaches the following as claimed

- A method and a system according to claims 1, 13, and 25, wherein the orders for clinically related supplies are aggregated for a plurality of clinical departments (**See Col. 2 Lines 18-37, and Col. 20 Lines 36-50**).

13. **Regarding Claims 11, 23, 35:** DeBusk teaches the following as claimed

- A method and a system according to claims 1, 13, and 25, further comprising a step of communicating the orders for clinically related supplies to a clinical outcomes store (**Col. 7 Lines 24-37**).

14. **Regarding Claims 12, 24, 36:** DeBusk teaches the following as claimed

- A method and a system according to claims 1, 13 and 25, further comprising a step of associating the orders for clinically related supplies with an individual patient supply record (**Fig. 17; Col. 12 1-15**).

#### ***Contact Info***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to FATEH M. OBAID whose telephone number is (571)270-7121. The examiner can normally be reached on Monday-Friday 7:30 A.M to 5:00 P.M. .

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vu Le can be reached on (571)272-7332. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would

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like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/FATEH M. OBAID/

Examiner, Art Unit 4154

/Vu Le/

Supervisory Patent Examiner, Art Unit 4154